

CALIFORNIA GAMBLING CONTROL COMMISSION  
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Sacramento, CA 95814

MINUTES OF COMMISSION MEETING  
December 7, 2000

OPEN SESSION

At Chairman Hensley's request, Commissioner Palmer lead the recitation of the Pledge of Allegiance.

Commissioner Hensley called the meeting to order at 9:40 a.m.

Chairman Hensley called upon Executive Coordinator, Melissa Meith to call the roll. Present were  
Commission Chairman John E. Hensley, Commissioner Michael C. Palmer,  
Commissioner J.K. Sasaki,  
and Commissioner Arlo E. Smith.

The Chairman then proceeded to the items on the agenda for Commission consideration and action.

Agenda Item 3. Review and Approval of Minutes of Meeting of November 1, 2000. Chairman  
Hensley waived a reading of the November 1, 2000, minutes and  
Commissioner Sasaki moved to  
approve them. Commissioner Smith seconded the motion and there being no  
comment from the public  
or discussion by the Commissioners, the Commissioners voted to approve  
the minutes of the November  
1, 2000 meeting.

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Agenda Item 4. Review and Approval of Notice to Adopt Conflict of  
Interest Code and  
Proposed Code. Ms. Meith discussed the requirement that the Commission  
adopt a Conflict of

Interest Code under the Political Reform Act (Government Code §87300, et seq.). Ms. Meith made a request that the Commission approve the "Notice of Intent to Adopt a Code," as well as the draft code. The code designates two categories of persons who will be required to give a full or limited disclosure of their income and ownership interests in securities and real estate under the Commission's Conflict of Interest Code. After the draft "Notice of Intent to Adopt a Code" is submitted to the Fair Political Practices Commission (FPPC), that agency as well as the public will have an opportunity to comment. That comment period will end in early February. The draft code, will also be available for public comment. The finalized code would then come back from the FPPC to the Commission for approval and adoption in March. Commissioner Smith moved to adopt the draft of the Conflict of Interest Code and Commissioner Sasaki seconded the motion. The Chairman asked for comment from the public and for any comments from the Commissioners. The Chairman then requested a vote and the motion was carried unanimously.

Agenda Item 5. Report on Status of Indian Gaming Revenue Sharing Trust Fund.

Commissioner Sasaki discussed the Indian Gaming Revenue Sharing Trust Fund ("Fund") and reported that no disbursements from the fund have been made. She stated the funds earn interest at a rate estimated to be between 5 and 6 percent and that those monies are deposited in the State's Surplus Money Investment Fund (SMIF). The State Controller distributes the interest earned on all SMIF accounts, including the Fund account, in January and July as of December 31, 2000, and June 30th, 2000, respectively. Commissioner Sasaki also explained that prior to any disbursement the Commission must report to the Department of Finance and to the Legislature and identify who will receive the funds, the amounts to be distributed, and how those amounts were calculated. The Commission has retained the Department of General Services Contracted Fiscal Services Section to assist the Commission in the financial and accounting responsibilities. Commissioner Palmer commented that the Commission will address the issue of the calculation of the contributions to the fund in the future.

Agenda Item 6. Invitation for Public Comment on Distribution of Indian Gaming Revenue Sharing Trust Fund. The Chairman introduced this agenda item and invited comment. Daniel

Cardenas, a member of the Pit River Tribal Council, addressed the commission as an individual, and stated that equal shares means equal shares. The compacts define a "compact tribe" and a "non-compact tribe", and make clear what equal shares means. He stated the funds should be equally divided among the non-compact tribes and that the Commission should not interpret the compacts, which are between the Tribes, and the State of California.

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The next speaker was Greg Elvine-Kreis, spokesperson for Greenville Rancheria, a third party beneficiary under the compacts, the Mooretown Rancheria and the Big Sandy Rancheria, both being compacted tribes with more than 350 gaming devices. Mr. Elvine-Kreis presented Ms. Meith with written materials explaining the view of the tribes he represents. Mr. Elvine-Kreis said the history of negotiations of the compacts support pro rata distribution and that the Commission has all the information it needs to decide on the method for distribution and to forward that opinion to the Legislature. Mr. Elvine-Kreis further stated that someone would be presenting to the Commission an interim distribution plan, which three of the tribes he represents support.

The next speaker was Jane Zerby, of the law firm of Dickstein & Merin, representing United Auburn Indian Community, (0 gaming devices), Cortina Indian Rancheria, (0 gaming devices), Bridgeport Indian Colony, (0 gaming devices), Jackson Rancheria, (a gaming tribe with over 350 devices), Rumsey Indian Rancheria, (a gaming tribe with over 350 gaming devices), the Cher-Ae Heights Indian Community of the Trinidad Rancheria, (a gaming tribe with fewer than 350 devices), and the Pala Band of Mission Indians, (0 gaming devices). Ms. Zerby expressed support of a proposal by Tony Cohen for the consideration of the Gaming Commission. Ms. Zerby then deferred to Mr. Cohen representing the Hopland Band of Pomo Indians, (a gaming tribe with 308 machines in operation), the Big Valley Band of Pomo Indians, (a gaming tribe with 354 machines in operation), therefore not eligible for any distribution from the fund, the Lytton Band of Pomo Indians, (0 gaming devices), and the Shingle Springs band of Me-wok Indians, (0 gaming devices). He said the Hopland Band of Pomo Indians is going to present a resolution passed by their Tribal Council. Mr. Cohen suggested that either, every

Tribe that has fewer than 350 machines in operation gets an equal share of the fund, or that the distribution is based proportionately on the number of machines below 350 in operation. Under the plan that Mr. Cohen presented, and Hopland proposed, each Tribe, which is entitled to distribution would take the lesser of those two options for itself in an interim distribution and would reserve the right to claim that it was entitled to more. The Hopland Band of Pomo Indians as a Tribe with 308 machines would reap a very small immediate benefit from this. The Tribe made the proposal, because it is crucial that the fund be distributed to the approximately 68 to 70 tribes operating no machines as soon as possible. Mr. Cohen then presented the Hoplands resolution to Commission.

The next speaker was Joseph Salque, Vice-Chairman of the Utu Utu Gwaite Pauite Tribe, Benton Pauite Reservation, a non gaming tribe. Mr. Salque commented that he is in favor of pro-rata. Mr. Salque also stated that some of the language in the compact contradicts itself and leaves room for interpretation and that's the problem and the money in the trust fund is intended to go to the tribes that don't have a casino.

The next speaker was Sandra Knight, a member of the Mechoopda Indian Tribe of Chico Rancheria Tribal Council. Ms. Knight commented that she agrees with the decision of the Pit River Tribe to not interpret the definition of a non-compact tribe. She also feels that conforming to this definition will not delay distribution of the fund, so that they can benefit as a non gaming tribe.

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The next speakers were Belinda Jones, with the Picayune Rancheria and Michelle Oboa (Attorney). The Picayune Rancheria is a non gaming tribe, with a compact signed with the State of California to have gaming if they decide to do so. At this time they feel like they are eligible for their full share of the Revenue Sharing Trust Fund. They see that the compact language says that non-compact tribes are tribes that have 350 or fewer devices. As far as the term equal shares, they see that to mean exactly what it says. That each non-compact tribe would receive an equal portion of the fund. Ms. Oboa also expressed her concerns regarding delays and long term implications of changing the definition of a non-compact tribe at this early state and would like to see a plan that considers future years along with this

year. Ms. Oboa also stated that the compacts made it clear that the small facilities would benefit and that would be the incentive to stay small. Chairman Hensley asked for any other public comment on Agenda item 6. Chairman commented at the November 1, 2000 meeting, there are three hurdles to overcome. One is to establish an absolute fiscal accounting of where the monies have come from. Two is the establishment of the distribution methodology, which we are discussing this morning. Third, when points one and two have been done to report that to the Legislature and then there is a 30 day period from when we report to the Legislature till time of distribution. Chairman thanked Mr. Cohen for the suggestion on the interim distribution. The Commission will take a serious look at the proposal. Commissioner Palmer added that as far as the Commission having all the information that it needs, one of the issues the Commission will have to address is the measurement date to determine the status of non compact or compact tribe. It is possible, that the less than 350 devices could fluxuate during the periods of distribution. The Commission will need to determine the measurement date, whether it be quarterly or annually, and to have some kind of certification for the tribes in order to properly allocate the funds. Chairman Hensley states that we will definitely address that issue and have the methodology available for the next open meeting which will be in January. Chairman Hensley asked if there are any more comments on Agenda Item 6. Item 6 closed.

Agenda Item 7. Commissioner General Discussion. Chairman Hensley stated that as the Commission moves forward we are now at the point that we have just announced the Executive Secretary position for the Commission.

Agenda Item 8. Public Comment. Chairman Hensley opened the floor for public comment. The first speaker was Trini Campbell, who stated she and other residents have been impacted by the growth of Cache Creek Bingo and Casino. She explained her primary concern is road safety for her family as well as all impacted residents. She stated that public hearings are required for initial casino development and expansion if the Tribal Council feels there will be an impact to surrounding community. She explained that while expansions have occurred, no public hearings have occurred and that collectively, the casino expansions in Brooks are causing the following impacts: traffic hazards from the increased number of cars on Highway 16, a two-lane highway, which is the sole access route

for casino patrons and residents of Caypay Valley; an increase in reckless driving, e.g., passing in no passing zones and excessive speeding; light pollution to neighboring residents from parking lot lights; and noise and air pollution from the vehicles of approximately 32,000 weekend patrons per month.

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Ms. Campbell also discussed land use conflicts in the area, which is predominately agriculturally zoned. She stated that there has been a decrease in the quality of life which is evidenced by the exodus of residents who have permanently moved out of the area. Ms. Campbell further explained that Rumsey Rancheria has chosen not to hold public hearings for recent casino expansions and that the loop hole in the compact as written is that casinos that become large with incremental casino expansion may avoid holding the public hearing by viewing the expansions as causing no impacts. She also stated the she would like to request that public hearings become legally required for expansions to existing casinos and that "impact" needs to be better defined for the benefit of protecting residents potentially impacted by casino growth.

The next speaker was Will Baker, a resident of Brooks, who stated that while the Indian tribes benefit from their exclusive franchise on high stakes gambling, they bear absolutely no responsibility for the sometime devastating consequences of exercising that franchise. He explained that they were historically granted the right to govern themselves on the scraps of land our Federal Government saw fit to hold in trust for them and that the lands were usually too barren and remote to be of any value. Mr. Baker continued to say that for at least 100 years, the Indian tribes were strongly encourage to stop speaking their language and to move from these barren outposts and take up the life of regular American citizens. He further stated that a few tribes, perhaps 1 in 10 nationally, have been given one and just one unique opportunity to achieve real economic independence and self reliance and in fact, immense wealth. He explained to say that the opportunity presented to them was to be the only people who can legally operate huge gambling palaces in areas in which such conduct was formally illegal. Mr. Baker said that they took that opportunity, and that most people would under the circumstances. Mr. Baker stated that in the case of the local tribe in his area, they have

used it with grace and generosity.

Mr. Baker pointed out that they have contributed to schools, the library, and even the gas station the area now relies on now because the local gas station owners were too poor to put in the newly federally mandated expensive tanks. He commented that he and others are very grateful for all of these things. He stated however, that it does not change the fact that this occurs at a great cost to our environment and sometimes our lives. Mr. Baker expressed that the final tragedy to him is that our Federal Congress has seemingly fixed things so that Native Americans have no choice but to demand this high price and we have no choice but to pay it. He stated in conclusion that surely there is a better way and that until we can find it and until we can work on it he stands with those other citizens who urge you, to put a moratorium on further casino expansions. He said that an exception to this would be those very small tribes who are struggling to survive. The next speaker was Mary Stovall, of the Grindstone Rancheria. Her position is equal shares per tribe.

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The next speaker, Cheryl Schmit, of Stand up for California, had suggestions as to how to develop and implement solutions to problems caused by gambling operations. She explained that the Commission needs immediate assistance and she requested 6 specific policies on tribal gaming. First, to develop modifications and amendments to the Tribal-State Compact that eliminate the vague language in sections 10.8.1, 10.8.2 of the compact. She commented that standards and enforcement measures addressing land use and development which are identified in the tribes environmental comment letters that have recently been received or sent from the Attorney General and County Governments should be instituted.

Secondly, Ms. Schmit suggested the May 15, 2001 date be extended or eliminated, explaining that this is the drop dead date for tribes to be licensed and operational for their machines. As a third point, Ms. Schmit suggested that the Governor be urged to initiate and implement the arbitration provisions contained within the Tribal-State Compact under sections 10.8.3, to resolve some of the natural resources abuses that are occurring. Fourth, she encouraged the Commission to work with county and city Governments that have been affected by tribal gaming and make amendments to the Tribal-State

Compact which will empower local government to ensure smart development and share natural resources. She explained that this will bring balance to the rights of the non Indian citizens and the special rights that have been given to Indian tribes. Fifth, Ms. Schmit suggested that the Governor and the Legislature be urged to commit to addressing problems created by this rapid and unrestricted growth of gambling enterprises. Sixth, Ms. Schmit requested that the Governor be urged to not sign another compact and the Legislature be urged not to ratify additional compacts until these very critical and serious multi- jurisdictional issues are resolved. Next speaker was Harvey Chin, leader of the National Coalition against Legalized Gambling. Mr. Chin discussed the State's responsibility to address the problems of gambling addiction. He explained that the State's share of the gaming device revenue shall be placed in a special distribution fund available for appropriation by the Legislature for programs designed to address gambling addiction. Chairman Hensley stated that the Commission does share concerns about addictive gambling and that while the special distribution fund mentioned by Mr. Chin is not yet available for use by the State, it will be in the near future. Chairman Hensley then closed the public comment section.

Agenda Item 9. Set Next Meeting. Chairman Hensley gave notice that the next public meeting would be held after early January.

Agenda Item 10. Adjourn. Commissioner Smith moved to adjourn and Commissioner Sasaki seconded the motion. There being no opposition, the meeting was adjourned.